

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James L. Roudabush, Jr., #82038-083,)

Plaintiff,)

v.)

Civil Action No. 8:17-3254-BHH

Glenn Maddox; CO Stone; CO Nichols;)

Ms. Moser; Mr. Ramirez; CO Ripple;)

CO Martin; C. Burkin, CO; C. Owens,)

CO; Ms. Davis; R. Goodman, CO;)

F. Brockington, CO; Chaplain Middleton,))

Defendants.)

ORDER

This matter is before the Court upon Plaintiff's pro se complaint filed pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review.

On January 19, 2018, the Magistrate Judge issued a Report and Recommendation ("Report"), outlining the issues and recommending that the Court deny Plaintiff's motions to proceed *in forma pauperis* but grant Plaintiff a period of 21 days from the time the Court rules on the Report to pay the \$400 filing fee. As the Magistrate Judge noted, in light of Plaintiff's three strikes, and because Plaintiff's claims do not satisfy the three strikes rule's standard of "imminent danger of serious physical injury," 28 U.S.C. § 1915(g), Plaintiff cannot proceed with this action in forma pauperis and must instead pay the full filing fee. Attached to the Report was a notice advising Plaintiff of his right to file specific, written objections to the Report within 14 days of receiving a copy.

Plaintiff did not file objections; however, on February 2, 2018, Plaintiff submitted a

letter indicating that he has been held in isolation and requesting “more time to file a reply.” (ECF No. 26 at 2.) In the interest of fairness, the Court construed Plaintiff’s letter as a motion for an extension of time to file objections, and in an order filed on February 6, 2018, the Court granted Plaintiff an additional 21 days to file objections to the Magistrate Judge’s Report. To ensure that Plaintiff received a copy of the Report, the Court also instructed the Clerk of Court to mail to Plaintiff, along with a copy of the Court’s order, a copy of the Magistrate Judge’s Report (ECF No. 26). Despite being granted an extension of time to file objections or to otherwise comply with the Magistrate Judge’s Report, Plaintiff has filed nothing to date.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear

error. After review, the Court finds no clear error and agrees with the Magistrate Judge's findings. Because Plaintiff has not paid the filing fee, this complaint is subject to dismissal without prejudice under the three strikes rule of § 1915(g). Accordingly, the Court hereby adopts and incorporates the Magistrate Judge's Report (ECF No. 24), and this matter is dismissed without prejudice.

AND IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

March 6, 2018
Charleston, South Carolina